

**Rules and Regulations for the NON-GOVERNMENTAL
WATER POLLUTION CONTROL FACILITIES FUND of the
RHODE ISLAND CLEAN WATER ACT
ENVIRONMENTAL TRUST FUND**



October 1993

(Regulation Number 12 190-012)

These rules and regulations are promulgated pursuant to the provisions of Chapters 42-35, 42-17.1, and 46-12, in particular §46-12-24, of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULES AND REGULATIONS FOR
NON-GOVERNMENTAL WATER POLLUTION FACILITIES CONTROL FUND

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULES AND REGULATIONS GOVERNING THE NON-GOVERNMENTAL WATER
POLLUTION CONTROL FACILITIES GRANT AND LOAN PROGRAM

SECTION 1.00 PURPOSE

The purpose of these regulations is to govern the use of the \$1,500,000 portion of the RI Clean Water Act Environmental Trust Fund allotted for "non-governmental water pollution control facilities, including pretreatment."

SECTION 2.00 LEGAL AUTHORITY

These rules and regulations are promulgated pursuant to the provisions of Chapters 42-35, 42-17.1, and 46-12, in particular §46-12-24, of the Rhode Island General Laws of 1956, as amended.

SECTION 3.00 SUPERSEDED RULES

These rules and regulations supercede the "Rules and Regulations Governing the Non-Governmental Water Pollution Control Facilities Program" dated September, 1991.

SECTION 4.00 LIBERAL APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to allow the Department to effectuate the purposes of state law, goals, and policies.

SECTION 5.00 SEVERABILITY

If any provision of these rules and regulations or the application thereof is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these rules and regulations.

SECTION 6.00 ADMINISTRATIVE FINDINGS

The goal of the RI Clean Water Act Environmental Trust Fund is the abatement of water pollution. This portion of the fund is meant to provide funding assistance for the construction and/or rehabilitation of non-governmental commercial and industrial water pollution control facilities. Such facilities must have as their primary purpose water pollution abatement, through the treatment of sewage; treatment and/or pretreatment of industrial wastewater to remove pollutants; or sedimentation and erosion control at existing sites and facilities.

All monies in the fund shall be expended in accordance with the general laws of the State of Rhode Island and are hereby restricted to providing grants and loans for activities that will result in water pollution reduction, pollution prevention and/or protection of the waters of the state.

SECTION 7.00 DEFINITIONS

As used in these rules and regulations the following definitions will apply.

Applicant - means any person or persons applying for monies under these rules and regulations.

Department - means the Department of Environmental Management (DEM).

Director - means the Director of the Department of Environmental Management or the subordinate(s) to whom the Director has delegated powers and duties vested in the Director by these regulations.

Governmental Entity - means any Rhode Island state or local governmental body or Rhode Island state agency and any entity publicly funded, appointed or otherwise organized by federal, RI state or local government for governmental purposes.

Grant - means money given to eligible entities with no repayment due if the grantee is in substantial compliance with all terms of the grant.

Industrial Wastewater - means all wastewater from non-domestic sources, including sewage from boats and marinas.

Loans - means money awarded to selected applicants subject to repayment on terms and schedules set by the Director of the Department of Environmental Management.

Permit - means an authorization, license or equivalent control document issued by the Department to implement regulations promulgated by the Department.

Person - means an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation) partnership, association, syndicate, fire district, club, non-profit agency (or any subdivision, commission, department, bureau, agency or department of state or federal government (including any quasi-governmental corporation) or of any interstate body).

Pollutant - means any material or effluent which may alter the aesthetic, chemical, physical, biological, or radiological characteristic and/or integrity of water, including but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, or agricultural waste, and other wastes, petroleum or petroleum products, including but not limited to oil.

Pollution - means the manmade or man-induced non-beneficial alteration of the aesthetic, physical, chemical, biological, radiological or thermal integrity of an aquatic ecosystem.

Pretreatment - means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Privately Owned Treatment Works - means any facility which is (a) owned by a private individual or private party or corporation or other private entity and which is used for the treatment of pollutants. This definition includes sewers, pipes if they convey wastewater to a privately owned treatment works, as well as any equipment, buildings or machinery used in the treatment operation; and , (b) not a POTW.

Project - means an action or facility that corrects, substantially reduces, or prevents pollution.

Publicly Owned Treatment Works (POTW) - means any facility for the treatment of pollutants, owned by the state or any political subdivision thereof, municipality or other public entity, including quasi-governmental corporations. This definition includes sewers, or pipes, which convey wastewater to a POTW, and any equipment, buildings, or machinery used in the treatment operation.

Rhode Island Pollutant Discharge Elimination System (RIPDES) means the Rhode Island system for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing discharge permits and imposing and enforcing pretreatment requirements pursuant to Title 46, Chapter 12 of the General Laws of Rhode Island and the Clean Water Act.

RIPDES Regulations means the Rhode Island Pollutant Discharge Elimination System Regulations promulgated by the Department and any amendments thereto.

Wastewater - means all flows and sanitary and combined sewers and all septage generated within the jurisdiction of the local governmental unit.

Sewage - means human waste, or wastes from toilets and other receptacles intended to receive or retain body waste, and any wastes, including waste from human households, commercial establishments, and industries, and stormwater runoff, that are discharged to or otherwise enter a publicly or privately owned treatment works.

SECTION 8.00 ELIGIBILITY CRITERIA

8.01 Eligible Applicants

- a. Eligible applicants include, but are not limited to, the following businesses and persons located in Rhode Island:
 - private businesses,
 - private colleges and universities,
 - private hospitals,
 - non-profit organizations.
 - public utilities
- b. At the Director's discretion, these monies may be used to secure other funding to carry out the purposes of this program.

8.02 Regulatory Compliance

- a. Any person requesting a grant or loan pursuant to these regulations shall disclose in writing the following with each application:
 1. Any and all permits which have been issued to the applicant or the subject facility by the Department, the Coastal Resources Management Council, the Army Corps of Engineers, or the United States Environmental Protection Agency;
 2. Any and all compliance schedules, or consent agreements/decrees, final decrees or orders, or any form of approval with conditions attendant thereto, which may have been issued to or entered into by the applicant or the subject facility by the Department, the Coastal Resources Management Council, the Army Corps of Engineers, or the United States

Environmental Protection Agency;

3. For each and every item identified in subsection 8.02(a)(1) or 8.02(a)(2), the applicant shall set out in writing whether the applicant is in compliance with any and all requirements prescribed in the identified item;
4. An instance of non-compliance as set out in subsection 8.02(a)(3) may, at the discretion of the Director, result in the denial, modification or imposition of conditions on the granting of an applicant's request for funding pursuant to these regulations. The Director in determining what effect, if any, an applicant's non-compliance may have, shall consider the following criteria:
 - a. The extent of applicant's noncompliance;
 - b. The applicant's history of compliance/non-compliance with Federal, State, and local environmental regulatory requirements;
 - c. The speed and degree to which the applicant responded to the instance of noncompliance;
 - d. Any action which the applicant may have taken to remedy or mitigate any harm resulting from noncompliance; and
 - e. The extent to which the non-compliance may have been intentional, willful or knowing.
- b. Completion of water pollution abatement projects shall not result in the violation of any federal, state, local statutes or regulations.

8.03 Eligible Projects

- a. Eligible projects shall include, but are not limited to the following:
 - Construction/rehabilitation of privately-owned sewers which serve businesses or industries.
 - Installation/Upgrade of pretreatment facilities including grease traps.
 - Replacement/rehabilitation of failing septic systems that serve businesses or industries.
 - Marine pumpout stations.
 - Sedimentation and erosion controls.
 - Demonstration projects that employ technologies that are proven effective, but not used in Rhode Island.
 - Installation of package treatment plants for on-site disposal of sewage.

8.04 The following projects shall be ineligible for funding pursuant to these regulations:

- Projects using experimental technology.
- Projects whose primary results will be improvement in productivity rather than pollution reduction.
- Projects that propose to correct a criminal violation.
- Research projects.

8.05 Eligible Costs

- a. Grants
 1. Project design - a maximum of 50% of the cost of the design of the project may be eligible for grant financing provided the project includes a construction completion schedule except as provided for

in 8.05(a)(3).

2. Construction - a maximum of 50% of the cost of construction of the project may be eligible for grant financing contingent upon the completion and approval by DEM of project design plans except as provided for in 8.05(a)(3).
3. Individual grants shall be limited to a maximum of \$75,000, for total eligible project costs of \$150,000. The minimum amount of an individual grant shall be \$2,500, for total eligible project costs of \$5,000. At the discretion of the Director, projects that provide statewide or regional benefits in water pollution control may be funded at a level greater than 50%.

b. Loans

Detailed regulations for loans have not been developed at this time.

1. Project design - 100% of the cost of the design of the project may be eligible for loan financing provided the project includes a construction completion schedule.
2. Construction - 100% of the cost of construction of the project be may eligible for loan financing.
3. All loans shall be secured with collateral or lien equal in value to the amount of the loan.
4. Individual loans shall be limited to a maximum of \$75,000 and a minimum of \$25,000.

SECTION 9.00 AVAILABLE FUNDS

A total of \$1,500,000 is to be used for both grants and loans. Funds will be available as grants and revolving loans to colleges, universities, hospitals and other private, non-governmental, commercial and industrial entities.

SECTION 10.00 APPLICATION REQUIREMENTS

- 10.01. Applications shall be submitted to Department of Environmental Management, Division of Water Resources, 291 Promenade Street, Providence, RI 02908 and shall include the following:
 - a. A letter requesting consideration for funding with a concise project description consisting of: a statement of the purpose of the project, the environmental benefit(s) and why it is eligible for funding under this program and any other information pertinent to the project;
 - b. A project schedule and budget;
 - c. A statement of outstanding compliance violations;
 - d. For demonstration projects, the applicant must agree to share any and all information and data derived from the project with the Department and all other interested parties;
 - e. All applications shall be signed by the chief financial officer of the applicant;
 - f. Any other supporting materials.

10.02 All proposals shall be subject to review by the Division of Water Resources and any other Divisions of the Department as the Director may determine to be appropriate.

10.03 Any other information that may be required by the Department to evaluate the application.

SECTION 11.00 SELECTION CRITERIA

11.01 Eligibility Review

- a. The Department's staff will review each application to evaluate the project and make an eligibility determination as well as ensure the completeness of the application.
- b. In order to satisfy the eligibility determination, the following criteria will be considered:
 1. The projects must address a source of pollution to the waters of the State;
 2. The projects must provide a reliable means of mitigating the identified pollution problem.
- c. If requirements 11.01(b)(1) and 11.01(b)(2) are satisfied then the project will be ranked and rated based upon:
 1. The severity and magnitude of the problem;
 2. The value of the resources to be water pollution protected;
 3. The beneficial impact to the waters of the State or to the affected POTW;
 4. Readiness to proceed.

SECTION 12.00 ADMINISTRATIVE PROCEDURES

12.01 Project Review

- a. The Department, through the project review committee, shall review projects and prioritize them for funding in accordance with the criteria listed in Section 11.00 of these regulations. The Department will review applications and notify applicants of results within 90 days of the receipt of applications that meet all requirements.
- b. The project review committee at a minimum will consist of three representatives from the Division of Water Resources.
- c. Recommendations for awards will be made on the basis of a majority vote of the review committee. The final determination for funding will be made by the Chief of the Division of Water Resources to be forwarded to the Director for approval.

12.02 Grant/Loan Award

- a. Successful applicants will receive a grant or loan offer specifying the amount, duration and conditions of the award. The offer will be in the form of a binding contract.

- b. Recipients will be required to sign, accept and return the offer to the Department within fifteen (15) days. Failure to execute the agreement within the fifteen (15) days may result in the cancellation of the grant or loan award. The Director may award these monies to the next highest rated project.
- c. Recipients will have 90 (ninety) days from the date of the acceptance of the grant offer to submit contract documents including complete plans and specifications, to the appropriate reviewing agencies. Recipients must also provide in this time period, proof of the necessary grant match by either letters of credit, loan agreements, dedicated escrow accounts or any pre-approved proof of matching funds by the Department.
- d. The recipient is responsible for obtaining any other necessary permits or approvals from any federal, state, or local agency with authority over the project or project area. Copies of these permits/approvals must be submitted to the Department for inclusion in the project file before the first payment request. Payments will be made in two to four installments as reimbursement for eligible expenses. Requests for reimbursement must include documentation of the incurred, eligible costs. Such documentation will be detailed in the grant offer.
- e. The Director may suspend, modify or revoke any awards granted pursuant to these regulations in the event that subsequent examination reveals any data included in an application form, submittal, plan or sketch to be incorrect or not in compliance with these regulations.

Appendix A

NON-GOVERNMENTAL WATER POLLUTION CONTROL FACILITIES FUND

PROJECT PRIORITY DETERMINATION SYSTEM SUMMARY SHEET

RATING DATE:_____

APPLICANT:_____

PROJECT NAME:_____

PROJECT COST:_____

PROJECT DESCRIPTION:_____

REVIEWERS' COMMENTS:_____

REVIEWERS' INITIALS:_____ / _____ / _____ / _____

PROJECT RATING CRITERIA SUMMARY

POINTS

I. SEVERITY AND MAGNITUDE OF PROBLEM _____

II. VALUE OF THE RESOURCES TO BE PROTECTED _____

III. BENEFICIAL IMPACT TO WATER OF THE STATE _____

IV. READINESS TO PROCEED CRITERIA _____

GRAND TOTAL

PROJECT RATING CRITERIA *

I. SEVERITY AND MAGNITUDE OF PROBLEM			Values	Point Rating	Actual
A-1	Enforcement Action Issued By DEM	5	___		
A-2	Enforcement Action Issued By Local Governmental Unit	___			
A-3	Occasional Violation of Permit		1	___	
B-1	Raw Sewage Discharge to Waterbody - (≥ 5000 GPD)		5	___	
B-2	Raw Sewage Discharge to Waterbody - (< 5000 GPD)		3	___	
C-1	Failing I.S.D.S. - Documented Water Quality Degradation	5	___		
C-2	Failing I.S.D.S. - Formal Notice(s) of Violation Issued		3	___	
C-3	Failing I.S.D.S. - No Formal Notice(s)		1	___	
D-1	Untreated Runoff / Documented Water Quality Degradation	5	___		
D-2	Untreated Runoff from Production Site or Materials Handling Area		3	___	
Section I - Total Points		___			

II. VALUE OF THE RESOURCES TO BE PROTECTED [Use Water Quality Classification/Shellfish

Closure Maps]

A. <u>Surface Water Classification Point Factors (General)</u>					
A-1	Does Project Affect: Existing/Potential Drinking Water Supply	8	___	A-2	Does Project Affect: Shellfish Harvesting
		6	___		
A-3	Does Project Affect: Bathing	6	___		
A-4	Does Project Affect: Recreational Boating or Fishing	2	___		
B. <u>Surface Water Body Targeting (Point Source)</u>					
B-1	Reclamation From Toxics (Rivers/Marine Waters)[State Clean Water Strategy Table A3-3] ***				
B-1-a	High Priority	5	___		
B-1-b	Medium Priority	3	___		
B-1-c	Others	1	___		
B-2	Protection From Toxics (Rivers/Marine Waters)[State Clean Water Strategy Table A3-4] ***				
B-2-a	High Priority	5	___		
B-2-b	Medium Priority	3	___		
B-2-c	Others	1	___		

B-3	Protection of Rhode Island Lakes [State Clean Water Strategy Table A3-8]		
B-3-a	High Priority (Top 20)	5	—
B-3-b	Medium Priority (Middle 20)	3	—
B-3-c	Others (Bottom 20)	1	—
	Subtotal II A & B	—	

C. Non-Point Source (NPS) Water Quality Prioritization

PROTECTION (Use NPS Plan Table B-2) **

C-1	Drinking Water Supplies		
C-1-a	High Priority (Above 75th Percentile)	7	___
C-1-b	Medium Priority (Middle 50%)	5	___
C-1-c	Others (Lowest 25%)	3	___
C-2	Bathing and Recreation		
C-2-a	High Priority (Above 75th Percentile)	5	___
C-2-b	Medium Priority (Middle 50%)	3	___
C-2-c	Others (Lowest 25%)	1	___
C-3	Habitat		
C-3-a	High Priority (Above 75th Percentile)	5	___
C-3-b	Medium Priority (Middle 50%)	3	___
C-3-c	Others (Lowest 25%)	1	___

RESTORATION (Use NPS Plan Table B-3) **

C-4	Drinking Water Supplies		
C-4-a	High Priority (Above 60th Percentile)	7	___
C-4-b	Others (Lowest 60%)	5	___
C-5	Bathing and Recreation		
C-5-a	High Priority (Above 75th Percentile)	5	___
C-5-b	Medium Priority (Middle 50%)	3	___
C-5-c	Others (Lowest 25%)	1	___
C-6	Habitat		
C-6-a	High Priority (Above 75th Percentile)	5	___
C-6-b	Medium Priority (Middle 50%)	3	___
C-6-c	Others (Lowest 25%)	1	___

D. Groundwater Protection Factor [Use Groundwater Protection Strategy]

D-1	Wellhead Protection Area for Community Water System Well	5	___
D-2	Designated Sole Source Aquifer (Appendix G-2: GAA & GA only)	4	___
D-3	Area of GAA Groundwater (page 5)	3	___
D-4	Area of GA Groundwater (page 5)	2	___
D-5	Area of GB Groundwater (page 5)	1	___

D-6 Area of GC Groundwater (page 5) 0 ____

Section II - Total Points *** ____

III BENEFICIAL IMPACT TO THE WATER OF THE STATE OR POTW

A-1 Project may result in Change of Surface Water Classification 10 ____
A-2 Project may result in Change of Groundwater Classification 7 ____
A-3 Project may eliminate a Use Impairment 7 ____

B-1 Project may Eliminate a Known Source of POTW Upsets 10 ____
B-2 Project may Help POTW to meet Permit Limit 5 ____
B-3 Project will Improve POW Plant Reliability 3 ____

C-1 Project Reclaims Usable Resources from Wastewater 7 ____
C-2 Project will result in Waste Minimization 5 ____
C-3 Project will a Significant Reduction in Water Usage 3 ____

Section III - Total Points ____

IV. READINESS TO PROCEED

A-1 Design is Complete, Current and Accurate 5 ____
A-2 Cost Estimate is Current and Accurate 2 ____
A-3 Identified Applicant Share 5 ____
A-4 Applicant has Received an Order of Approval 2 ____

Section IV - Total Points ____

RATING SUMMARY

Section I - Total Points ____
Section II - Total Points ____
Section III - Total Points ____

Section IV - Total Points _____

GRAND TOTAL _____

Footnotes for Appendix I:

* Select one criterion, at most, for each category. For example, choose A-1, A-2 or neither in Sections I, II(A), II(D), & III as applicable. Likewise, choose B-1-a, B-1-b, or B-1-c in Sections II(B) & II(C), as applicable. However, this rule does not apply to Section IV where each and every criterion which applies is chosen.

** For water bodies that are included on both the reclamation and protection from toxic lists or the non-point source and restoration lists, the highest point rating under either of those lists must be used, but not both.

The foregoing "Interceptor Bond Fund" after due notice, is hereby adopted and filed with the Secretary of State this day of to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 42-35, 42-17.1, and 46-12 of the General Laws of Rhode Island of 1956, as amended.

Louise Durfee, Director
Department of Environmental Management

Notice Given on:

Public Hearing held:

Filing Date:

Effective Date:

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF WATER RESOURCES

I, _____, hereby certify the attached is a true copy of the "Rules and Regulations for the Non-Governmental Water Pollution Control Facilities Fund", dated September, 1991, developed by the Rhode Island Department of Environmental Management to be filed with the Secretary of State.

The above sworn and signed before me on the __th day of _____, 199__.

_____, Notary Public.

My commission expires on the __th day of _____, 199__.